

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

JOHN DUNMIRE

NO.1:05-CV-000064

V.

CAPTAIN DEPASQUAL, ET AL

BRIEF IN SUPPORT OF SUMMARY JUDGMENT

AND NOW, Comes the plaintiff, John Dunmire, who respectfully submits the following in support of his motion for summary judgment:

1. Plaintiff avers that Summary judgment is appropriate if the pleadings show that there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. Fed R. Civ. Procedure 56(c). see also, TURNER V. SCHERING-PLOUGH CORP., 901 F2d 335, 340 (3rd Cir. 1990).

2. Plaintiff avers that when requesting summary judgment, the moving party bears the burden of showing the absence of a genuine issue as to any material fact. see, CELOTEX CORP. V. CATRETT, 477 US 371, 325 (1986) and YOUNG V. QUINLAN, 960 F2d 351, 357 (3rd Cir. 1992). Plaintiff avers that he has shown the absence of a genuine issue as to the material facts by entering Defendant's official response to his grievance in which Defendant's admit and acknowledge that the strip search at issue herein did in fact occur.

3. Plaintiff avers that there is an absence of evidence to support the defendant's case and as such Plaintiff is entitled to Summary Judgment.

WHEREFORE, Plaintiff prays this Court to, upon consideration of the foregoing, grant Summary Judgment in favor of the Plaintiff

Respectfully Submitted,



John Dunmire, Plaintiff, 10-31-05